

1 HB417  
2 115539-2  
3 By Representatives McMillan, Faust, Shiver, Baker (A) and  
4 Davis (N & P)  
5 RFD: Baldwin County Legislation  
6 First Read: 26-JAN-10

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9 A BILL  
10 TO BE ENTITLED  
11 AN ACT  
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13 Relating to Baldwin County; to amend Sections  
14 45-2-120.08 and 45-2-120.12 of the Code of Alabama 1975,  
15 relating to the Baldwin County personnel merit system,  
16 providing further for the election procedure of the personnel  
17 appeals board and providing further for the timing of the  
18 written evaluations of appointed contract employees.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Sections 45-2-120.08 and 45-2-120.12 of  
21 the Code of Alabama 1975, are amended to read as follows:

22 "§45-2-120.08.

23 "(a) There shall be established the Baldwin County  
24 Personnel Appeals Board. The board shall hear all appeals from  
25 final action as requested by an affected employee.

26 "(b) The Baldwin County Personnel Appeals Board  
27 shall be composed of five persons who are residents of the

1 county. The members of the board shall be appointed as  
2 follows: Two members shall be appointed by the county  
3 commission, two members shall be selected by the classified  
4 employees using the procedure provided in this section. The  
5 fifth member shall be selected by the other four members of  
6 the board within 30 days after the four members of the board  
7 are selected and take office. In the event the four members of  
8 the board cannot agree on a fifth member within 30 days, then  
9 the fifth member shall be selected as follows: The members  
10 appointed by the county commission shall nominate one person  
11 and the members selected by the classified employees shall  
12 nominate one person. From these two nominees, the fifth member  
13 of the board shall be selected by lot.

14 "(c) (1) The personnel department shall ~~cause to be~~  
15 ~~placed with the paychecks tendered all classified employees a~~  
16 ~~notification~~ notify all classified employees that nominations  
17 for membership on the board will be accepted for a period of  
18 10 work days from that date and instructing all interested  
19 classified employees to submit nominations to the Personnel  
20 Director of Baldwin County within that period. Nominations  
21 shall be limited to persons who are classified employees of  
22 the county.

23 "(2) The personnel director shall compile a list of  
24 the nominations and cause ballots to be prepared ~~for inclusion~~  
25 ~~with the next paychecks tendered~~ and distributed to all  
26 classified employees and shall instruct all classified

1 employees of their right to vote for ~~two names, and only two~~  
2 ~~names, one name~~ contained on the list of nominees.

3 "(3) The employees shall be instructed to tender  
4 their ballots in sealed envelopes to their supervisors within  
5 five work days for submission to the personnel director who  
6 shall make appropriate arrangements for their ~~retrieval and~~  
7 ~~tabulation in the presence of at least two members of the~~  
8 ~~Baldwin County legislative delegation~~ tabulation. Upon  
9 tabulation of the ballots, the personnel director shall obtain  
10 written certification executed by all the county employees who  
11 assisted during the counting of the ballots and shall submit  
12 the fully executed written certification to the Baldwin County  
13 legislative delegation following each election. The  
14 certification and ballots shall be retained by the personnel  
15 director as public records for 12 months from the date of  
16 certification of the results.

17 "(4) In the event that any one employee received a  
18 majority of all votes cast, he or she shall be deemed elected  
19 to serve on the board. In the event that no ~~two employees~~  
20 ~~receive at least a the 25 percent plurality~~ employee receives  
21 a majority of all votes cast, then the names of the ~~four~~ two  
22 employees receiving the most votes on the initial ballot shall  
23 be placed on a run-off ballot and voted upon by the employees  
24 as set forth above. ~~Those two employees~~ The employee then  
25 receiving the most votes shall be deemed elected to membership  
26 on the board.

1           "(d) No person who holds elected office, is a  
2 candidate for elected office, or receives a salary from the  
3 county, except the classified employee board members, shall  
4 serve on the board. An employee board member's term shall  
5 immediately terminate upon occurrence of any one of the  
6 foregoing conditions. A vacancy shall be filled in the same  
7 manner as the original appointment of a board member as soon  
8 as possible after a vacancy occurs. A board member shall be  
9 eligible for reappointment to successive terms on the board.

10           "(e) Each member shall serve a three-year term with  
11 the exception of the initial members of the board. The initial  
12 members shall draw lots to determine two members who shall  
13 serve a three-year term, two members who shall serve a  
14 two-year term, and one member who shall serve a one-year term.

15           "(f) The board shall follow administrative  
16 procedures adopted by the county commission to implement the  
17 appeals process. The personnel department shall provide all  
18 necessary clerical and administrative support for the board.  
19 The board shall meet as needed. Each year, board members shall  
20 select from among themselves a chairperson and secretary of  
21 the board. Board members may be compensated as established  
22 from time to time by the county commission.

23           "(g) All testimony shall be under oath and the board  
24 has the power to subpoena witnesses and demand production of  
25 relevant documents. The board has the authority to affirm,  
26 revise, or amend any previous personnel decisions after a  
27 hearing.

1           "(h) The board shall hear all appeals from the final  
2 action of the department head with respect to disciplinary  
3 action. From any adverse decision of the county commission,  
4 the employee shall be entitled to, within seven work days,  
5 appeal to the Circuit Court of Baldwin County for a nonjury  
6 trial de novo.

7           "§45-2-120.12.

8           "One appointed employee position may be filled by  
9 the judge of probate which position shall be designated chief  
10 clerk. Two appointed employee positions may be filled by the  
11 revenue commissioner which positions shall be designated chief  
12 clerk of collections and chief appraiser. Three appointed  
13 employee positions may be filled by the sheriff which  
14 positions shall be designated chief deputy, chief jailer, and  
15 chief of the civil division. The following shall be appointed  
16 contract employees: County administrator, emergency management  
17 director, juvenile detention director, personnel director,  
18 building official, clerk/treasurer, county engineer, and  
19 development and environmental director. Each of the appointed  
20 contract employees shall be employed under contract with the  
21 commission. Each contract shall include at a minimum the  
22 following provisions:

23           "(1) A provision for termination and severance.

24           "(2) A job description for the position.

25           "(3) ~~Semiannual~~ An annual written evaluation to be  
26 reviewed with the employee and retained by the commission in  
27 the employee's personnel file.

1                   "(4) A provision that the contract will be  
2 nonbinding on the successor commission after each four-year  
3 election; however, the contracts must be cancelled or  
4 continued within 90 days of the successor commission taking  
5 office.

6                   "(5) A provision that any appointed contract  
7 employee employed by the county commission may not be subject  
8 to any action to cancel or not to renew the contract or in any  
9 other manner dismiss or terminate the contract employee except  
10 by a three-fourths vote of the elected members of the county  
11 commission."

12                   Section 2. This act shall become effective  
13 immediately following its passage and approval by the  
14 Governor, or its otherwise becoming law.